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HOUSE BILL 240

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

RELATING TO EMPLOYMENT; PROHIBITING TERMINATION OF EMPLOYMENT  
OF VOLUNTEER EMERGENCY RESPONDERS; PROVIDING A CAUSE OF ACTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Volunteer Emergency Responder Job Protection Act".

Section 2. DEFINITIONS.--As used in the Volunteer  
Emergency Responder Job Protection Act:

A. "emergency or disaster" means an event so  
declared by the governor or president of the United States; and

B. "volunteer emergency responder" means a person  
who is a member in good standing of a volunteer fire  
department, an emergency medical service, a search and rescue  
team or a law enforcement agency or who is enrolled by the  
state or a political subdivision of the state for response to

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1 an emergency or disaster.

2 Section 3. TERMINATION OF EMPLOYMENT OF VOLUNTEER  
3 EMERGENCY RESPONDER PROHIBITED--LIMITATION--NOTICE--  
4 CERTIFICATION--WITHHOLDING PAY.--

5 A. An employee shall not be terminated, demoted or  
6 in any other manner discriminated against in the terms and  
7 conditions of employment because the employee, when serving as  
8 a volunteer emergency responder, is absent from the employee's  
9 place of employment in order to respond to an emergency or  
10 disaster.

11 B. Subsection A of this section shall not apply if  
12 the employee, while acting as a volunteer emergency responder  
13 to an emergency or disaster, is absent from the employee's  
14 place of employment for a period of more than ten regular  
15 business days in a calendar year.

16 C. An employee who will be absent from the  
17 employee's place of employment while serving as a volunteer  
18 emergency responder to an emergency or disaster shall make  
19 reasonable efforts to notify the employer of that service and  
20 shall continue to make those reasonable notification efforts  
21 over the course of the absence.

22 D. An employer may request an employee to provide  
23 to the employer a written verification from the office of  
24 emergency management or a state or local official managing an  
25 emergency or disaster of the dates and time that the employee

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1 served as a volunteer emergency responder to an emergency or  
2 disaster.

3 E. An employer may charge against an employee's  
4 regular pay time that the employee is absent from employment  
5 while serving as a volunteer emergency responder to an  
6 emergency or disaster.

7 Section 4. CAUSE OF ACTION.--In addition to other  
8 available remedies, an employee who has been terminated,  
9 demoted or in any other manner discriminated against in the  
10 terms and conditions of employment in violation of the  
11 Volunteer Emergency Responder Job Protection Act may bring a  
12 cause of action seeking reinstatement of the employee's former  
13 position, payment of back wages, reinstatement of fringe  
14 benefits or, where seniority rights are granted, reinstatement  
15 of seniority rights; provided that an action for violation of  
16 the Volunteer Emergency Responder Job Protection Act shall be  
17 brought within one year from the date of the violation.